

Dbrendel.txt

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1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 WESTERN DISTRICT OF PENNSYLVANIA
3 CONSOLIDATION COAL COMPANY,)
4 Plaintiff,)
5 vs.)
6 UNITED STATES DEPARTMENT OF)
7 THE INTERIOR, NATIONAL PARK)
8 SERVICE,)
9 and)
10 CAROL D. SCHULL, individually)
11 and in her capacity as the)
12 Keeper of the National Register)
13 of Historic Places,)
14 and)
15 ROY BRENDDEL and DIANE BRENDDEL,)
16 Defendants.)

Civil Action
No. 00-2120

14

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DEPOSITION OF: DIANE F. BRENDEL

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- - - -

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19

DATE: February 8, 2006
Wednesday, 9:30 a.m.

20

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LOCATION: Thorp Reed & Armstrong
14th Floor
One Oxford Centre
Pittsburgh, PA 15219

22

23

TAKEN BY: Consolidation Coal Company

24

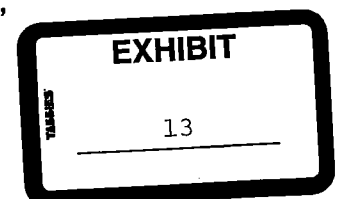
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REPORTED BY: Keith G. Shreckengast, RPR
Notary Public
AKF Reference No. KS92307

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1 DEPOSITION OF DIANE F. BRENDEL,
2 a witness, called by the Plaintiff for examination,
3 in accordance with the Federal Rules of Civil
4 Procedure, taken by and before Keith G. Shreckengast,
5 RPR, a Court Reporter and Notary Public in and for
6 the Commonwealth of Pennsylvania, at the offices of
7 Page 1



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- 13 A. I did not, no.
- 14 Q. Do you know if they were told that?
- 15 A. I have no idea.
- 16 Q. You say it's unrelated?
- 17 A. To me it's unrelated.
- 18 Q. Did you examine the application made to the
- 19 Pennsylvania Historical Resource -- I'm sorry,
- 20 to the Pennsylvania Historical and Museum
- 21 Commission on the Bureau of Historical
- 22 Preservation as it was made for the structure?
- 23 A. Did I look at the what?
- 24 Q. The application to the Pennsylvania --
- 25 A. Yes.

□

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- 1 Q. Do you remember telling it, telling the
- 2 Pennsylvania Commission, that this land was
- 3 threatened by undermining?
- 4 MR. HOOK: She's already answered
- 5 that, that she did not to her knowledge.
- 6 Q. Go ahead, ma'am.
- 7 MR. HOOK: That's her answer. She
- 8 doesn't have to answer it twice, Joe.
- 9 Q. Go ahead, ma'am.
- 10 MR. HOOK: Don't answer. You've
- 11 answered.
- 12 Q. I'm asking you was the Pennsylvania Historical
- 13 Museum Commission advised in writing at the
- 14 time of the application for designation that
- 15 the property was threatened with undermining?
- 16 A. I really don't remember.
- 17 Q. Did you examine it before it was submitted?

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18 A. I'm sure that I did.

19 Q. You previously mentioned a meeting with
20 Mr. Jenkins, if you recall that?

21 A. Yes.

22 Q. Now just to go back up a little bit, at that
23 time Mr. Jenkins discussed with you the fact
24 that Consol was going to undermine the
25 property?

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1 A. Yes.

2 Q. And did you tell him that you were going to
3 resist this and hire an attorney?

4 A. No. In fact my recollection is that
5 Mr. Jenkins said to us you should hire an
6 attorney.

7 Q. You think he advised you to do it?

8 A. I know he did. It just came back to me.

9 Q. And who did he recommend you hire, anybody?

10 A. He said, I remember his exact quote, because
11 none of it had occurred to me before, he said,
12 you know, Consol has -- I don't know whether he
13 said many or hundreds of attorneys, you should
14 go get yourself an attorney.

15 Q. Who was present to hear that beside you?

16 A. Roy.

17 Q. Your husband, okay. Did you do that then?

18 A. Yes.

19 Q. Following Mr. Jenkins' advice?

20 A. Yes.

21 Q. Do you recall ever having a meeting with

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22 Mr. Wes Kramer and Neal Jenkins at a later
23 date?
24 A. Yes.
25 Q. where was that meeting held?

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1 A. I believe that was the meeting that was held
2 sitting around what was once our beautiful
3 pool.
4 Q. So it was held at your place?
5 A. Yes.
6 Q. And what was the purpose of that meeting, as
7 you understood it?
8 A. Truthfully I can't even remember now.
9 Q. Do you remember any of the discussions?
10 A. I think it was about how they were planning on
11 keeping the house from being wrecked.
12 Q. Anything else?
13 A. I can't recall anything else.
14 Q. Was Mr. Hook there?
15 A. Yes, he was.
16 Q. And did you make a demand for compensation from
17 Consol for its undermining?
18 A. Not that I recall.
19 Q. Pardon?
20 A. I don't remember making any kind of demands,
21 ever.
22 Q. Do you recall asking for \$3 million at that
23 meeting, or through your attorney at that
24 meeting?
25 A. That's the wrong meeting.

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1 Q. I just asked you at that meeting did you make a
2 demand for \$3 million?
3 A. No.
4 Q. When did you demand it?
5 A. We never demanded \$3 million. I'll tell you
6 exactly what happened. At our first meeting
7 with Mr. Wes Kramer -- In fact it has to go
8 back even before that, when we met with
9 Mr. Jenkins, and he said we don't want to be
10 bothered with any of this. This is too much
11 work for us. He said you go and find somebody,
12 and find out how much it would cost to rebuild
13 this house from the ground up. So Roy and I,
14 we went to an independent contractor, we said
15 find out how much it would cost to build this
16 place from the bottom up. He did that. It
17 came close to \$2 million. Then we figured we
18 would need demolition costs. We were picturing
19 everything as being completely wrecked, and how
20 much it would all cost. So at that meeting
21 when they said how much will it cost, we told
22 them 3 million. We didn't demand 3 million.
23 We told them \$3 million, which is the figure
24 they asked us to spend our money to go out and
25 find out.

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1 Q. Who was the independent contractor?
2 A. Davis & Sons.
3 Q. And who at that company?

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- 4 A. Bill Davis.
- 5 Q. Is he the owner or proprietor of the business?
- 6 A. Unfortunately the business is now defunct.
- 7 Q. Was he?
- 8 A. He was.
- 9 Q. So when did this meeting take place at which
- 10 you told them it would take 3 million, 2
- 11 million, to build the house and then the other
- 12 expenses?
- 13 A. Had to have been '99.
- 14 Q. And where did it take place?
- 15 A. Well, the original meeting took place in
- 16 David's office. Then we all gathered around
- 17 the pool at some other time and just talked
- 18 about what all they were going to do to try to
- 19 keep the place from being wrecked. And that's
- 20 all I remember about that meeting.
- 21 Q. When was it that you indicated the cost of
- 22 rebuilding and so forth to Mr. Jenkins?
- 23 A. That was at some meeting, I think it was the
- 24 spring of '99.
- 25 Q. He advised you to go out and get somebody to

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- 1 tell you what it would cost to reproduce this?
- 2 A. Exactly. Which we did. And then they turned
- 3 around and called it our demand.
- 4 Q. Did you and Mr. Hook, in the presence of
- 5 Mr. Jenkins or Mr. Kramer, discuss the fact
- 6 that if the coal company has to go around your
- 7 property, around your property to bypass it, it
- 8 would cost the coal company a lot of money?

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- 9 A. The only thing I remember about that is that we
10 said isn't it possible for you people to go
11 around our house. And as I recall, Mr. Kramer
12 said yeah, it really wouldn't cost us that
13 much, but we're not going to do that.
- 14 Q. But did anybody say to them, Mr. Kramer, or
15 Mr. Jenkins, alone or together, that it would
16 cost Consolidation Coal Company 5 million to
17 jump around the Thralls House, the Brendel
18 property?
- 19 A. I have no recollection of that.
- 20 Q. Never heard it?
- 21 A. No.
- 22 Q. Have you ever discussed that point, how much it
23 would cost Consol to go around your property?
- 24 A. I have nobody knowledgeable that I could talk
25 to about it. I would have no idea.

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- 1 Q. So your answer is no?
- 2 A. No.
- 3 Q. You never talked to anybody about it?
- 4 A. No.
- 5 Q. Do you know if that view, in determining how
6 much should be paid to your client, somebody on
7 your behalf advanced, said look, it will cost
8 millions and millions to go around the Brendel
9 property, so we do want that money, rather than
10 you spending it going around that property, you
11 give us the money you save?
- 12 MR. HOOK: Do that again. That's the

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13 worst question I ever heard. Try to make it a
14 nice question that anybody could understand.

15 MR. KATARINCIC: You must live in a
16 very pure world.

17 BY MR. KATARINCIC:

18 Q. Do you remember whether anybody discussed on
19 your behalf how much it would cost to mine
20 around your property?

21 A. No.

22 Q. Never heard of that?

23 A. No.

24 Q. Did you ever hear of that discussed before
25 today?

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1 A. No.

2 Q. Never?

3 A. No.

4 Q. You were at a meeting with Mr. Hook, Jenkins,
5 and Kramer?

6 A. Yes.

7 Q. And you didn't hear that?

8 A. No.

9 Q. Before, from the time you purchased the house,
10 I think you said it was '71 or so?

11 A. '71.

12 Q. Until 19- -- to the end of 1997, what repair
13 work or maintenance work did you do on the
14 structure, beside putting up that asphalt roof?

15 A. We put gutters and downspouts.

16 Q. Who did that for you?

17 A. I have no idea.